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HUMAN RIGHTS COMMITTEE
Fifty-second session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

Morocco

1. The Committee considered the third periodic report of Morocco (CCPR/C/76/Add.3 and Add.4) at its 1364th to 1366th meetings (CCPR/C/SR.1364 to SR.1366), held on 20 and 21 October 1994, and adopted[1] the following comments:

A. Introduction

2. The Committee welcomes the opportunity to resume its dialogue with the State party and thanks the Government for its report (CCPR/C/76/Add.3 and Add.4) and core document (HRI/CORE/1/Add.23). The Committee regrets, however, that although the report contained detailed information on laws and regulations giving effect to the Covenant, it did not include sufficient information about the implementation of the Covenant in practice or about factors and difficulties affecting the application of the Covenant.

[1] At the 1383rd meeting, held on 2 November 1994.

3. The delegation provided valuable additional information on a number of issues not covered in the report which enabled the Committee to obtain a better understanding of the human rights situation in Morocco. This enabled an enhanced dialogue between the delegation and the Committee.

B. Factors and difficulties affecting the implementation of the Covenant

4. The Committee recognizes that the State party has embarked on a wide-ranging process of amending its domestic legislation to bring it into line with the Covenant. The process has not yet been completed and steps remain to be taken to harmonize the Constitution with the Covenant and develop democratic institutions and human rights machinery for better implementation of the Covenant. The remnants of certain traditions and customs constitute an obstacle to the effective implementation of the Covenant, particularly with regard to equality between men and women.

C. Positive aspects

5. The Committee recognizes that the attitude of the Government has recently changed towards a greater openness in its handling of human rights issues, including its reporting obligations under the Covenant. In the latter regard, some frank oral answers given during the consideration of the report to questions raised by members regarding issues such as disappearances, the existence of the Tazmamart detention centre, the whereabouts of persons previously detained therein, as well as the fate of the Oufkir family were appreciated.

6. The Committee welcomes the numerous measures taken during the period under review to improve democracy and institute a legal environment more favourable to the promotion and protection of human rights. The Committee notes with satisfaction the promulgation in 1992 of an amended Constitution and the amnesty of a number of political prisoners. Compensation is being payed to certain persons illegally detained. The Committee was also glad to learn of the commutation of death sentences to life imprisonment sentences, the establishment of the Constitutional Council and the Economic and Social Council, the holding on 27 September 1993 of parliamentary elections, as well as the holding of a national symposium on problems affecting the news, information and communication services to recommend modifications in the legislation to, inter alia, bring it into line with international human rights standards, which constitute steps to consolidate the rule of law. Some progress has been made in the promotion of the status of women and women have been elected to Parliament for the first time. It takes note of the expanded role of the Advisory Council on Human Rights and the efforts made to promote public awareness of the rights guaranteed under the Covenant. The Committee also welcomes the information that measures have been taken to teach the Covenant and other international human rights instruments to members of the judiciary and the police. The freedom now given to non-governmental organizations to be active in the country is also a matter of appreciation.

D. Main subjects of concern

7. The Committee notes that the Constitution does not contain specific provisions as to the relationship between international treaties and domestic law. Accordingly, there is a need to better define the place of the Covenant within the Moroccan legal system to ensure that domestic law is applied in conformity with the provisions of the Covenant .

8. The Committee is concerned about Morocco's role with regard to the persistent problems faced regarding self-determination in Western Sahara.

9. The Committee regrets that, although some improvement has been achieved as regards the status of women, the State party has not yet embarked on all the necessary reforms to combat the difficulties still impeding equality between men and women. The Constitution provides for equality only in the area of political rights, and the situation of women in both public and private law continues to be de jure or de facto the object of discrimination as regards the right to leave the country, freedom of commercial activities, personal status, marriage, divorce, inheritance rights, transmission of nationality, education, access to work and participation in the conduct of public affairs.

10. The Committee is concerned that the categories of crimes punishable by the death penalty include crimes in respect of which, by reference to article 6 of the Covenant, the death penalty should not be imposed.

11. Despite the amnesty of political prisoners and the destruction of certain unregistered places of detention, the Committee continues to deplore that a large number of cases of summary and arbitrary executions, enforced or involuntary disappearances, torture and arbitrary or unlawful detention committed by members of the police or the army, including cases concerning persons previously detained in Tazmamart, have not yet been investigated. Furthermore, the perpetrators of such acts were neither brought to justice nor punished. The Committee cannot accept that the names of those charged with these offences were not made public. The Committee deplores that measures of clemency adopted during the period under review were generally not extended to Western Sahara.

12. The Committee is concerned that guarantees contained in articles 9, 10 and 14 of the Covenant are not complied with. Despite some efforts to build new prisons, the Committee remains concerned about conditions of detention, particularly overcrowding of prisons, which frequently lead to malnutrition, diseases deaths of detainees. Concern is also expressed over the long period of detention without charge under article 154 of the Code of Criminal Procedure which appear to be incompatible with article 9 of the Covenant. The Committee is also concerned about the obstacles to the independence and impartiality of the judiciary.

13. The Committee is concerned about the full implementation of the right to freedom of movement, including in particular the restrictions still imposed on members of the Oufkir family.

14. The Committee notes with regret the shortcomings in the observance of article 18 of the Covenant, in particular the restrictions affecting the Bahais' right to profess and practice their belief and limitations on inter-religious marriage. Concern is also expressed at the impediment placed upon the freedom to change one's religion.

15. The Committee expresses concern about the extent of the limitations to the freedom of expression, assembly and association under the Dahir of 1973 and especially limitations on the right to criticise the Government. Governmental control of the media as well as the imprisonment of some journalists for having expressed criticisms give rise to serious concern.

16. The Committee is concerned that the electoral system, under which two thirds of members of the House of Representatives are elected by direct universal suffrage and one third by an electoral college, may raise issues as to the requirements, under article 25 (b) of the Covenant, that elections be held by "universal and equal suffrage". The wide scope of executive power in the hands of the King has implications for the effective independence of the judiciary and the democratic processes of Parliament.

E. Suggestions and recommendations

17. The Committee recommends that the State party consolidate the process of constitutional revision in order to ensure that all the requirements of the Covenant are reflected in the Constitution, thereby bringing the Constitution into true compliance with the Covenant and to ensure that the limitations imposed on the exercise of rights and freedoms under national legislation do not go beyond those permitted under the Covenant.

18. The Committee expresses the wish that the Government of Morocco gives serious consideration to becoming a party to the first Optional Protocol.

19. The Committee further recommends that Morocco studies measures to limit the categories of crimes punishable by death penalty to the most serious offences, with a view to its eventual abolition.

20. The Committee emphasizes the need for the Government to prevent and eliminate discriminatory attitudes and prejudices towards women and to revise domestic legislation with a view to bring it in conformity with articles 2, 3 and 23 of the Covenant, taking into account the recommendations contained in the Committee's general comments Nos. 4, 18 and 19. It recalls in that regard that, although several reservations have been made by Morocco in acceding to the Convention on the Elimination of All Forms of Discrimination against Women, Morocco remains bound to the fullest extent by the provisions of articles 2, 3, 23 and 26 of the Covenant.

21. The Committee recommends that the Moroccan authorities ensure that summary and arbitrary executions, enforced or involuntary disappearances, torture, ill-treatment and illegal or secret detention do not occur and that any such cases be investigated in order to bring before the courts those suspected of having committed or participated in such crimes, to

punish them if found guilty, and to provide compensation to victims. The Committee expresses the wish that any measures of clemency be granted on a non-discriminatory basis in conformity with articles 2 and 26 of the Covenant. It also recommends that measures of administrative detention and incommunicado detention be restricted to very limited and exceptional cases, and that the guarantees concerning pre-trial detention provided for in article 9, paragraph 3, of the Covenant be fully implemented. Further measures should also be taken to improve detention conditions and, particularly, to ensure that the United Nations Standard Minimum Rules for the Treatment of Prisoners are complied with and the relevant regulations and directives known and accessible to prisoners. Proposed measures to strengthen the presumption of innocence should be implemented as soon as possible.

22. The Committee emphasizes the need to take further measures to guarantee the freedom of religion and to eliminate discrimination on religious grounds. It suggests in this connection that the State party takes into account the recommendations contained in the general comment on article 18 of the Covenant.

23. The Committee recommends that restrictions imposed to the rights to freedom of expression, assembly and association under the Dahir of 1973 be modified and brought into line with those permitted under the Covenant to ensure their application in conformity with the Covenant on a non-arbitrary basis.

24. The Committee recommends that the authorities ensure that the third periodic report of Morocco and the comments of the Committee be disseminated as widely as possible in order to encourage the involvement of all sectors concerned on the improvement of human rights.